

§41.2

24 CFR Subtitle A (4-1-08 Edition)

§41.2 Definitions.

As used in this part, the term Secretary means the Secretary of Housing and Urban Development, or to the extent of any delegation of authority by the Secretary to act under this part, any other Department Official to whom authority has been delegated.

§41.3 Assurance and declaration required.

(a) Each Assistant Secretary shall, as a condition for approval of any contract or application for assistance under a program imposing standards and/or requirements for accessibility which are subject to this part, require an assurance of compliance with those standards and requirements. Such assurance shall be in a form acceptable to the Secretary.

(b) For each project covered under this part, except a project subject to Departmental examinations and inspections as set forth in §41.5(a), the responsible Assistant Secretary shall require a declaration as to project drawings, specifications, and other construction documents. The declaration shall be signed by the licensed, or registered, architect or engineer, or by such other responsible official as designated by HUD, who has prepared such construction documents. The declaration shall affirm that the proposed project, to the best knowledge and belief of the declarer, conforms to applicable accessibility design standards and requirements. The declaration statement shall be in a form acceptable to the Secretary.

§41.4 Waiver or modification of standards.

(a) The applicability of standards and requirements for accessibility by the physically handicapped may be waived or modified on a case-by-case basis upon a written request from a recipient of a Departmental grant or loan or from a Departmental agency leasing a building or facility.

(b) For residential buildings or facilities, a waiver or modification may be granted only by the Secretary.

(c) Upon the recommendation of an Assistant Secretary, a waiver or modification for nonresidential buildings or facilities may be granted only by the

Administrator, General Services Administration.

(d) No request for a waiver or modification shall be recommended for approval by an Assistant Secretary or approved by the Secretary unless the following criteria obtain:

(1) The granting of the waiver or modification is based upon findings of fact, and is not inconsistent with the provisions of the Architectural Barriers Act, and

(2) Application of the requirement or standard would adversely affect the purposes of the Departmental program under which the loan or grant is being provided or for which the building or facility is being leased.

(e) Requests for a waiver or modification shall be submitted to the appropriate Assistant Secretary for review. Each request shall include:

(1) The name and address of the requestor.

(2) The name and location of the involved building or facility.

(3) Any applicable plans, drawings, specifications or other descriptions of the building or facility.

(4) The standard provision or requirement from which the requestor seeks a waiver or modification.

(5) A description of the building or facility as to its accessibility for the physically handicapped and how the waiving or modification of a standard or requirement would affect that accessibility.

(6) A statement of the facts which establish that the criteria of paragraph (d) of this section would be satisfied.

(7) A description of the steps taken, or to be taken, to comply with standards and requirements for which a waiver or modification is not being requested.

(8) Such other information as the requestor or the responsible Assistant Secretary deems appropriate or necessary.

(f) If the responsible Assistant Secretary finds that the criteria of paragraph (d) of this section are satisfied, then he or she shall submit the request along with his or her recommendations